

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

JAMES FRANKLIN CARPENTER	§	
v.	§	CIVIL ACTION NO. 6:14cv776 Crim. No. 6:13cr2
UNITED STATES OF AMERICA	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Movant James Carpenter, proceeding *pro se*, filed this motion to vacate or correct his sentence under 28 U.S.C. §2255, complaining of the validity of his conviction. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

After review of the pleadings, the magistrate judge issued a report recommending that Carpenter's motion to vacate sentence be denied. Carpenter received a copy of the magistrate judge's report on June 2, 2015, but filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has examined the pleadings in this cause and the report of the magistrate judge and has concluded that this report is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a magistrate judge's report

are filed, the standard of review is “clearly erroneous, abuse of discretion and contrary to law.”). It is accordingly

ORDERED that the report of the magistrate judge (docket no. 6) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled motion to vacate or correct sentence is **DISMISSED WITH PREJUDICE**. It is further

ORDERED that the Movant James Carpenter is **DENIED** a certificate of appealability *sua sponte*. Finally, it is

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED**.

It is SO ORDERED.

SIGNED this 13th day of July, 2015.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE